

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JASON P. SUMMERS, # 28055-045,)
Petitioner,)
vs.) Case No. 20-cv-468-SPM
WARDEN WILLIAMS,)
Respondent.)

MEMORANDUM and ORDER

McGLYNN, District Judge:

Petitioner Jason P. Summers, a federal inmate at the FCI-Greenville, filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, seeking relief under *United States v. Davis*, __ U.S. __, 139 S. Ct. 2319. (Doc. 1). On September 10, 2020, the Court granted the Federal Public Defender's Motion to Withdraw and advised Summers that he may file a notice of dismissal without prejudice on or before October 13, 2020. (Doc. 9). Summers submitted his Notice of Dismissal on October 13, 2020; it was received and docketed by the Clerk on October 14, 2020. (Doc. 13, p. 1). Also on October 14, 2020, Respondent electronically filed a Motion to Dismiss (Doc. 11).

Federal Rule of Civil Procedure 41(a)(1)(A)(i) provides that a plaintiff/petitioner may voluntarily dismiss his case by filing “a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment[.]” Such a notice “effect[s] the immediate dismissal of the suit.” *Nelson v. Napolitano*, 657 F.3d 586, 587 (7th Cir. 2011). Under the prison mailbox rule, Summers’ Notice is deemed to be filed as of the date it was placed in the prison mail system, thus it preceded the Respondent’s Motion to Dismiss and effected Summers’ voluntary dismissal.

See Houston v. Lack, 487 U.S. 266 (1988) (mailbox rule); *Jones v. Bertrand*, 171 F.3d 499, 502 (7th Cir. 1999) (same).

Accordingly, this case is **DISMISSED** without prejudice pursuant to Rule 41(a)(1)(A)(i).

Summers need not file any response to the Motion to Dismiss as directed in the Order at Doc. 12. Respondent's Motion to Dismiss (Doc. 11) and any other pending motions are **DENIED AS MOOT**. The Clerk of Court is **DIRECTED** to close this case.

IT IS SO ORDERED.

DATED: October 14, 2020

s/ Stephen P. McGlynn
STEPHEN P. McGLYNN
United States District Judge